

REVISED EXHIBIT Q

Agreed Constructions for U.S. Patent No. 6,873,630		
Claim No(s).	Claim Term	Agreed Construction
3, 30, 32, 45, 56, 62, 74	“media access control module”	a module at the Media Access Control (MAC) sublayer of the IEEE 802 standard that serves as an intermediary between a physical layer and higher network protocol layers and sends and receives Ethernet packets
3, 30-32, 45, 62, 74	“distribution module”/“distributor”	a module that divides across multiple logical channels an Ethernet frame received from a MAC module **Subject to the understanding that, in some cases, a module can consist of more than one component.
62	“apportion contents of [a] frame”	to divide contents of an Ethernet frame received from a MAC module
5, 30-31, 58, 76, 105, 107	“physical coding module”	a module that performs encoding and/or decoding of Ethernet frame elements at the physical layer
21, 22, 52, 62 30-32	“collection module”/“collector”	a module that reassembles an Ethernet frame to be provided to a MAC layer

REVISED EXHIBIT Q

Disputed Constructions for U.S. Patent No. 6,873,630			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
5, 30, 76, 105, 107 13, 14, 113, 114, 116, 117	“encode said apportionment of communication elements into a series of a codes for transmission”/“encode packet bytes for transmission on a network medium”/“encode said ... subset of bytes”/“encoding [a] portion”	<p><u>PROPOSED CONSTRUCTION:</u> Translating communication “elements” (as construed herein) at the physical layer to an alternate format to achieve more reliable transmission of the “element.”</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Abstract; 4:66-5:10; 7:12-15; 7:41-59; 10:9-53; 10:57-60; 11:6-15; 11:24-40; 11:50-59; 11:63-12:2; 12:21-28; 13:50-53; 14:9-28; Figs. 1-2, 3A, 3B, 5A-5D and accompanying text. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this phrase does not require construction because the phrase is clear on its face. However, if the Court decides the construe this phrase, the phrase should be construed to mean:</p> <p>“convert said apportionment of communication elements into a series of codes for transmission by changing their form / convert packet bytes by changing their form for transmission on a network medium / convert said . . . subset of bytes by changing their form / convert [a] portion by changing its form.”</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Abstract; Col. 2:64-3:17; Col. 4:31-39; Col. 5:18-24; Col. 7:41-53; Col. 10:8-65; Col. 11:24-12:3; Col. 13:14-25; Col. 13:47-53; Col. 14:8-28; Col. 15:32-39; Col. 16:23-32; Col. 18:35-55; Col. 25:51-58; Col. 28:34-44; Col. 28:57-67; Col. 29:41-50; Col. 29:57-66; Figs 1, 2, 3A-B, 5A-5D, and accompanying text. • '630 Patent Prosecution History, Office Action of Dec. 4, 2002, and references cited therein. • '630 Patent Prosecution History, Office Action of Jan. 12, 2004, and references cited therein. • '630 Patent Prosecution History,

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Disputed Constructions for U.S. Patent No. 6,873,630			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
			<p>Submission filed on or about Feb. 13, 2004, and references cited therein.</p> <ul style="list-style-type: none"> • '630 Patent Prosecution History, Office Action of May 6, 2004, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Jun. 14, 2004, and references cited therein. • encode: 2. In programming, to put something into code, which involves changing the form. MICROSOFT PRESS COMPUTER DICTIONARY, 3rd Ed. (1997) p. 175. • encode: to convert data by the use of a code in such a manner that reconversion to the original form is possible. IBM DICTIONARY OF COMPUTING, (1994), p. 235. • IEEE Standard. 802.3-2005, Figure 48-4 and accompanying text, which describes 8b/10b encoding. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • Sun reserves the right to rely on any evidence identified by NetApp
3, 5, 12-15, 21-24, 45, 48, 50, 52-53, 73, 76,	"portion [of a] communication"	PROPOSED CONSTRUCTION: The fraction or portion of a frame carried by one channel.	PROPOSED CONSTRUCTION: Sun contends this phrase does not require construction because the phrase is clear on its face.

REVISED EXHIBIT Q

Disputed Constructions for U.S. Patent No. 6,873,630			
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89, 113-116,		<p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 2:48-59; 5:48-53; 6:54-63; Figs. 2, 5A-5D and accompanying text. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Col. 2:48-58; Col. 2:64-3:17; Col. 4:55-65; Col. 5:48-53; Col. 12:14-20; Col. 15:8-28; Col. 15:32-39; Col. 16:16-53; Col. 17:7-46; Col. 20:34-55; Col. 20:63-21:16; Col. 21:21-25; Col. 21:33-60; Col. 25:12-37; Col. 25:50-58; Col. 27:9-37; Col. 29:41-62; Figs 1, 2, 3A-B, and accompanying text. • '630 Patent Prosecution History, Office Action of Apr. 22, 2003, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Jun. 13, 2003, and references cited therein. • '630 Patent Prosecution History, Office Action of Jan. 12, 2004, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Feb. 13, 2004, and references cited therein. • '630 Patent Prosecution History, Office Action of May 6, 2004, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Jun. 14, 2004, and references cited therein. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the

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Disputed Constructions for U.S. Patent No. 6,873,630			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
			context of its use in the '630 patent. <ul style="list-style-type: none"> • Sun reserves the right to rely on any evidence identified by NetApp
3, 5, 8, 13-15, 21-23, 45-48, 50, 52, 73, 76, 79, 89, 113, 114, 116, 117	"element [of a] communication"/"element [of a] communication portion"/"elements"/"element [of a] portion"	<p><u>PROPOSED CONSTRUCTION:</u> A portion (e.g., a byte) of a "mini-frame" (as construed herein) that is individually encoded for transmission across one of a plurality of logical channels.</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 6:64-7:6; 7:41-53; 8:43-55; Figs. 2, 5A-5D and accompanying text. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this phrase does not require construction because the phrase is clear on its face.</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Col. 3:1-3; Col. 5:66-7:6; Col. 7:41-53; Col. 15:8-28; Col. 15:32-39; Col. 15:55-59; Col. 16:23-53; Col. 17:7-39; Col. 20:35-21:17; Col. 21:21-25; Col. 21:33-55; Col. 25:12-37; Col. 25:50-58; Col. 26:6-14; Col. 27:9-37; Col. 29:41-50; Col. 29:58-67; Fig 2 and accompanying text. • '630 Patent Prosecution History, Office Action of Dec. 4, 2002, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Feb. 10, 2003, and references cited therein. • '630 Patent Prosecution History, Office Action of Sept. 9, 2003, and references cited therein. • '630 Patent Prosecution History, Submission filed on or about Oct. 9, 2003, and references cited therein. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the

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Disputed Constructions for U.S. Patent No. 6,873,630			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
			context of its use in the '630 patent. <ul style="list-style-type: none"> • Sun reserves the right to rely on any evidence identified by NetApp.
5, 76	"apportionment [of a] communication element"	<p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Claims 5, 37, 66, 76. <p><u>PROPOSED CONSTRUCTION:</u> A subset of communication "elements" (as construed herein).</p> <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this phrase does not require construction because the phrase is clear on its face.</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Col. 2:28-35; Col. 2:36-47; Col. 3:1-17; Col. 4:12-25; Col. 5:54-7:6; Col. 9:24-33; Col. 15:32-39; Col. 22:51-23:9; Col. 25:50-57; Fig 2, 5A-5D and accompanying text. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • Sun reserves the right to rely on any evidence identified by NetApp
8	"allotting elements of said communication"	<p><u>PROPOSED CONSTRUCTION:</u> Allocating "elements of a communication" (as construed herein) received from a "media access control module" (as construed herein).</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 6:64-7:3; 9:24-31; 9:34-39. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this phrase does not require construction because the phrase is clear on its face.</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Abstract; Col. 1:41-53; Col. 2:64-3:17; Col. 4:26-47; Col. 4:55-5:17; Col. 5:33-47; Col. 6:46-7:6; Col. 6:14-28; Col. 6:38-53; Col. 7:7-53; Col. 8:22-32; Col. 9:12-44; Col. 9:64-10:53; Col. 10:66-11:15; Col.

REVISED EXHIBIT Q

Disputed Constructions for U.S. Patent No. 6,873,630			
Claim No(s).	Claim Term	NetApp's Proposed Construction and Supporting Evidence	Sun's Proposed Construction and Supporting Evidence
		<p>in the context of its use in the '630 patent.</p> <ul style="list-style-type: none"> NetApp reserves the right to rely on any evidence identified by Sun. 	<p>11:24-51; Col. 11:60-62; Col. 12:42-13:2; Col. 13:14-38; Col. 15:55-59; Figs. 1, 2, 3A-B, 4, 5A-D, and accompanying text.</p> <ul style="list-style-type: none"> '630 Patent Prosecution History, Office Action of Dec. 4, 2002, and references cited therein. '630 Patent Prosecution History, Submission filed on or about Feb. 10, 2003, and references cited therein. '630 Patent Prosecution History, Office Action of Sept. 9, 2003, and references cited therein. '630 Patent Prosecution History, Submission filed on or about Oct. 9, 2003, and references cited therein. '630 Patent Prosecution History, Office Action of Jan. 12, 2004, and references cited therein. '630 Patent Prosecution History, Submission filed on or about Feb. 13, 2004, and references cited therein. '630 Patent Prosecution History, Office Action of May 6, 2004, and references cited therein. '630 Patent Prosecution History, Submission filed on or about Jun. 14, 2004, and references cited therein. Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent.

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			<ul style="list-style-type: none"> • Sun reserves the right to rely on any evidence identified by NetApp
15, 48	“collecting an element”	<p><u>PROPOSED CONSTRUCTION:</u> Receiving an “element of communication portion” (as construed herein).</p> <p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See 7:51-53; 9:45-55; 12:30-34; Fig. 3B and accompanying text. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this phrase does not require construction because the phrase is clear on its face.</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Abstract; Col. 2:64-3:17; Col. 4:40-47; Col. 4:55-5:17; Col. 5:33-43; Col. 6:14-28; Col. 6:39-63; Col. 7:7-53; Col. 8:22-32; Col. 9:45-63; Col. 10:54-65; Col. 11:24-39; Col. 12:4-34; Col. 12:42-13:2; Col. 13:15-38; Col. 13:54-14:28; Col. 16:33-53; Col. 17:7-36; Col. 18:35-67; Col. 20:63-21:17; Col. 21:33-55; Col. 22:51-23:9; Figs 1, 2, 3A-B, 4, 5A-D, and accompanying text. • '630 Patent Prosecution History, Office Action of Dec. 4, 2002. • '630 Patent Prosecution History, Submission filed on or about Feb. 10, 2003. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • Sun reserves the right to rely on any evidence identified by NetApp
53, 56	“mini-frame”	<p><u>PROPOSED CONSTRUCTION:</u> A fraction or portion of a communication received from or sent to a media access control layer from a physical layer device and that is carried by one channel.</p>	<p><u>PROPOSED CONSTRUCTION:</u> Sun contends this term does not require construction because the term is clear on its face. However, if the Court decides the</p>

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		<p><u>INTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • See Abstract; 2:48-51; 5:48-53; 6:67-7:6; 7:51-53; 9:24-33; 9:48-57; 9:58-63; 9:64-66; 10:8-12; 10:21-35; 10:41-51; 10:65-11:15; 11:49-12:3; 12:21-40; 13:14-17; 13:47-48; 13:54-14:24; Fig. 1, 2, 3A, 3B, and 5A-5D and accompanying text. <p><u>EXTRINSIC EVIDENCE</u></p> <ul style="list-style-type: none"> • Jonar C. Nader, <u>Illustrated Dictionary of Computing</u> (1995) frame In IEEE terminology, the unit of data transferred at the OSI data link layer. • Mitch Tulloch and Ingrid Tulloch, Microsoft Encyclopedia of Networking 495 (2002). • Achille Pattavina, "Switching Theory: Architectures and Performance in Broadband ATM Networks, John Wiley & Sons, 10-11 (1998). • Dr. Anthony Acampora may testify concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • NetApp reserves the right to rely on any evidence identified by Sun. 	<p>construe this term, the term should be construed to mean: "a fraction or portion of an Ethernet frame that is sent across one of multiple channels."</p> <p><u>EVIDENCE:</u></p> <ul style="list-style-type: none"> • '630 Patent, Abstract; Col. 2:48-58; Col. 3:1-17; Col. 5:48-53; Col. 6:64-7:6; Col. 7:41-53; Col. 9:25-33; Col. 9:45-10:53; Col. 10:66-11:15; Col. 11:50-59; Col. 11:63-12:3; Col. 12:21-28; Col. 12:35-41; Col. 13:14-25; Col. 13:47-14:28; Col. 21:56-60; Col. 22:7-12; Figs 2, 3A-B, 5A-5D, and accompanying text. • Testimony by experts called by Sun, including Mr. Ennis, concerning the meaning of this term to one of skill in the art in the context of its use in the '630 patent. • Sun reserves the right to rely on any evidence identified by NetApp